IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.5574 of 2005

Between:

Gordon Judge Goolamier, S/o. Herbert Goolamier, 30 years,
R/o. 6-2-37/5, New Bhoiguda, Secunderabad, Hyderabad.

...PETITIONER

AND

1. The Government of India, Ministry of External Affairs, rep.by its Secretary, Sansad Bhavan, New Delhi.
2. The Regional Passport Office, rep.by its Regional Passport Officer, Secunderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue order or orders, direction or directions, writ or writs, particularly one in the nature of Writ of Mandamus by declaring the action of the 2nd respondent in passing orders vide HYDMO3318104, dated 04.01.2005, wherein directed the petitioner to obtain Declaratory order is illegal, arbitrary and consequently direct the respondents to consider the application of the petitioner for change of Date of Birth in the passport bearing No.E4624906, from 06.02.1970 to 06.02.1975 as mentioned in the Secondary School Certificate and change the Date of Birth in the passport and issue the same to the petitioner.

Counsel for the Petitioner: MR.K.L.N.SWAMY

Counsel for the Respondents: MR.A.RAJASHEKAR REDDY (ASSISTANT SOLICITOR GENERAL)

The Court at the admission stage made the following:

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.5574 of 2005

ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Central Government appearing for the respondent-Passport Authority.

It is the case of the petitioner that his actual date of birth is 06.02.1975, but in the passport issued to him by the 2nd respondent-Passport Authority in the year 1993, his date of birth was wrongly mentioned as 06.02.1970. Soon after noticing the said mistake, he approached the 2nd respondent in December, 2004 with a request to make correction of his date of birth in the Passport and for the said purpose he has also surrendered his passport. In response to the same, by letter dated 04.01.2005 the second respondent informed the petitioner that he shall furnish a declaratory order from the competent Court. Aggrieved by the said action of the second respondent, this Writ Petition is filed.

It is required to notice that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at

Bombay, in W.P.No.1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18.04.2001, which are to the following effect:

a. Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth is the passport, PIA(Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth.

As of today, if any request for correction of date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, the second respondent ought to have considered the application of the petitioner in the light of the above instructions in Circular dated 18.04.2001.

Accordingly, the order dated 04.01.2005 issued by the second respondent is set aside and the Writ Petition is disposed of with a direction to the second respondent to consider the request of the petitioner afresh on the basis of his application dated 30.12.2004 for correction of date of birth and process the same in terms of the circular dated 18-04-2001. The petitioner is granted liberty to produce the material / documents to substantiate his correct date of birth within two weeks from today, in

which event the 2nd respondent after verifying the genuineness or otherwise thereof pass appropriate orders in accordance with law within a period of four weeks thereafter.

With the above directions, the Writ Petition is disposed of. No costs.

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18th March, 2005.

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ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Secretary, Government of India, Ministry of External Affairs, Sansad

Bhavan, New Delhi.

2. The Regional Passport Officer, Regional Passport Office, Secunderabad.

3. Two CD copies.